

STATE OF SOUTH CAROLINA

(Caption of Case)

IN RE: Richard Hatalski,

Complainant,

vs/

PBT Communications, Inc.

BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

COVER SHEET

DOCKET

NUMBER: 2009 - 119 - C

(Please type or print)

Submitted by: Sue-Ann Gerald Shannon

Address: McNair Law Firm, P.A.

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NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

DOCKETING INFORMATION (Check all that apply)

☐ Emergency Relief demanded in petition☐ Request for item to be placed on Commission's Agenda expeditiously☐ Other:

INDUSTRY (Check one)	NATURE OF ACTION (Check all that apply)			
<input type="checkbox"/> Electric	<input type="checkbox"/> Affidavit	<input checked="" type="checkbox"/> Letter	<input type="checkbox"/> Request	
<input type="checkbox"/> Electric/Gas	<input type="checkbox"/> Agreement	<input type="checkbox"/> Memorandum	<input type="checkbox"/> Request for Certification	
<input type="checkbox"/> Electric/Telecommunications	<input checked="" type="checkbox"/> Answer	<input type="checkbox"/> Motion	<input type="checkbox"/> Request for Investigation	
<input type="checkbox"/> Electric/Water	<input type="checkbox"/> Appellate Review	<input type="checkbox"/> Objection	<input type="checkbox"/> Resale Agreement	
<input type="checkbox"/> Electric/Water/Telecom.	<input type="checkbox"/> Application	<input type="checkbox"/> Petition	<input type="checkbox"/> Resale Amendment	
<input type="checkbox"/> Electric/Water/Sewer	<input type="checkbox"/> Brief	<input type="checkbox"/> Petition for Reconsideration	<input type="checkbox"/> Reservation Letter	
<input type="checkbox"/> Gas	<input type="checkbox"/> Certificate	<input type="checkbox"/> Petition for Rulemaking	<input type="checkbox"/> Response	
<input type="checkbox"/> Railroad	<input type="checkbox"/> Comments	<input type="checkbox"/> Petition for Rule to Show Cause	<input type="checkbox"/> Response to Discovery	
<input type="checkbox"/> Sewer	<input type="checkbox"/> Complaint	<input type="checkbox"/> Petition to Intervene	<input type="checkbox"/> Return to Petition	
<input checked="" type="checkbox"/> Telecommunications	<input type="checkbox"/> Consent Order	<input type="checkbox"/> Petition to Intervene Out of Time	<input type="checkbox"/> Stipulation	
<input type="checkbox"/> Transportation	<input type="checkbox"/> Discovery	<input type="checkbox"/> Prefiled Testimony	<input type="checkbox"/> Subpoena	
<input type="checkbox"/> Water	<input type="checkbox"/> Exhibit	<input type="checkbox"/> Promotion	<input type="checkbox"/> Tariff	
<input type="checkbox"/> Water/Sewer	<input type="checkbox"/> Expedited Consideration	<input type="checkbox"/> Proposed Oder	<input type="checkbox"/> Other: _____	
<input type="checkbox"/> Administrative Matter	<input type="checkbox"/> Interconnection Agreement	<input type="checkbox"/> Protest		
<input type="checkbox"/> Other: _____	<input type="checkbox"/> Interconnection Amendment	<input type="checkbox"/> Publisher's Affidavit		
	<input type="checkbox"/> Late-Filed Exhibit	<input type="checkbox"/> Report		

Print Form

Reset Form

Margaret M. Fox

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April 21, 2009

via Electronic Filing

Mr. Charles L. A. Terreni
Chief Clerk and Administrator
South Carolina Public Service Commission
101 Executive Center Drive
Columbia, South Carolina 29210

RE: Complaint of Richard Hatalski
Docket No. 2009-119-C

Dear Mr. Terreni:

Enclosed for filing please find the Answer of PBT Telecom, Inc., in the above-referenced docket. By copy of this letter, I am serving a copy of this Answer on all parties of record.

PBT has in good faith attempted to address Mr. Hatalski's concerns stemming from installation of a fiber optic drop on February 10, 2009. PBT has made all necessary repairs, as well as made additional improvements to the property that were unrelated to PBT's installation of the fiber cable.

Representatives from PBT met with Mr. Hatalski as recently as April 3d, at which time Mr. Hatalski stated that he was satisfied with the repairs made. We are filing this Answer to make sure PBT is responsive to the filed complaint, but it is our understanding that the complaint has been resolved to Mr. Hatalski's satisfaction. For these reasons, and upon the bases as set forth in PBT's Answer, PBT considers this matter resolved and would, therefore, ask the Commission to dismiss the complaint.

If you have any questions or need additional information, please do not hesitate to contact me.

Sincerely,



Margaret M. Fox

Enclosure

cc: Mr. L.B. Spearman
Parties of Record

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BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

Docket No. 2009-119-C

IN RE:

Richard Hatalski,

Complainant,

v.

PBT Telecom, Inc.,

Defendant.

ANSWER OF
PBT TELECOM, INC.

In compliance with the Notice issued March 23, 2009, PBT Telecom, Inc. ("PBT") respectfully submits this Answer to the allegations made by Richard Hatalski in a letter ("Complaint Letter") received by the Public Service Commission of South Carolina ("the Commission") on March 11, 2009.

Mr. Hatalski is not a current customer of PBT. PBT has right of access to a utility easement located on the premises. Mr. Hatalski's Complaint Letter refers to issues that occurred during installation of a fiber optic drop at 102 John Long Road in Gilbert on February 10, 2009. Mr. Hatalski specifically complains that the fiber drop installation led to damages to (1) a sewer line; (2) a freshwater line; (3) a mail box; and (4) "possibly," to a coaxial video line. PBT answers the Complaint Letter, and replies to the allegations set forth by Mr. Hatalski, as follows:

FOR A FIRST DEFENSE

1. PBT denies each and every allegation and statement set forth in Mr. Hatalski's Complaint Letter except as hereinafter admitted and, further, demands strict proof thereof.

FOR A SECOND DEFENSE

2. As to the first, unnumbered paragraph located on the first unnumbered page of Mr. Hatalski's Complaint Letter, PBT is without information and belief as to the truth of Mr. Hatalski's name, address, telephone, and email information and, therefore, denies same.

3. As to the second, unnumbered paragraph located on the first unnumbered page of Mr. Hatalski's Complaint Letter, PBT admits its address is correct as listed.

4. As to the third, unnumbered paragraph located on the first unnumbered page of Mr. Hatalski's Complaint Letter, PBT admits that it accessed Mr. Hatalski's property through a utility easement in order to install fiber optic cable. PBT admits that Mr. Hatalski did not request the installation and that no notice was given as it was not required.

5. As to the paragraph numbered 1) located on the first unnumbered page of Mr. Hatalski's Complaint Letter, PBT admits only that Mr. Hatalski's sewer line was cracked during installation but was subsequently repaired. PBT denies all remaining allegations.

6. As to the paragraph numbered 2) located on the first unnumbered page of Mr. Hatalski's Complaint Letter, PBT admits only that some damage was caused to the water line, which was subsequently repaired. PBT denies all remaining allegations.

7. With respect to the paragraph numbered 3) located on the first unnumbered page of Mr. Hatalski's Complaint Letter, PBT denies the allegations regarding alleged possible damage to a video line.

8. As to the paragraph numbered 4) located on the second unnumbered page of Mr. Hatalski's Complaint Letter, PBT denies that his mail box was "crushed." Mr. Hatalski's mail box was later replaced with a new one. PBT denies the remaining allegations.

9. PBT denies all allegations contained in the second, unnumbered paragraph located on the second unnumbered page of Mr. Hatalski's Complaint Letter.

10. With respect to the third, unnumbered paragraph located on the second unnumbered page, PBT admits that Mr. Hatalski spoke with Mr. Whetstone of PBT, but denies the remaining allegations contained within this paragraph.

11. With respect to the fourth, unnumbered paragraph located on the second unnumbered page, PBT admits that it has received a complaint filed by Mr. Hatalski with the Office of Regulatory Staff, but denies the remaining allegations.

FOR A THIRD DEFENSE

12. Mr. Hatalski has failed to state a cause of action against PBT upon which relief may be granted and his Complaint Letter should, therefore, be dismissed. PBT has resolved all installation-related issues and, moreover, has made improvements to the property unrelated to the installation by PBT.

13. Although the installation occurred on February 10th, PBT did not learn of Mr. Hatalski's complaint as to any possible damages to his property until Monday, March 2d, through a voice message left by Mr. Hatalski on Saturday, February 28th, complaining of a damaged sewer line. On the same day PBT learned of the complaint, PBT immediately contacted the contractor, Trans-Tel, Inc. ("TTI"), that installed the fiber cable in order to begin

repairs to Mr. Hatalski's property. Specifically, PBT took the following actions to address the allegations now complained of by Mr. Hatalski:

a. Sewer Line. Mr. Hatalski alleges that PBT caused damage to his sewer line, resulting in sewer water flooding his driveway and seeping into Lake Murray. Mr. Hatalski also claims that his son, who, upon information and belief, is a part-time resident of the premises, was unable to make use of the toilet and shower for "about 1 week." As stated above, PBT did not learn of the problem until March 2d. On the same day PBT learned of the complaint, PBT found no seepage and made the necessary repairs to a cracked sewer line. Also on that same day, Mr. Hatalski's son indicated that he was satisfied with the repairs and that the bathroom was in use. In addition, the owner of Sharpe's Septic Tank Co., which had installed the sewer system 10 years before, inspected the sewer repairs on March 4th, and again on March 9th, and found them to be completed to his satisfaction. At Mr. Sharpe's recommendation, PBT also replaced the couplings with a new and improved product. Mr. Sharpe has agreed to inspect the sewer line for one year to ensure that the repairs made continue to function properly.

b. Water Line. Mr. Hatalski alleges that PBT caused damage to his water line. On the day of installation, PBT noticed damage to the water line and made the repairs at that time. PBT returned to mend a leak in the line on March 3d.

c. Mail Box. Mr. Hatalski claims that his mail box was "crushed." During installation of the mainline along John Long Road on Friday, February 27th, the front door of the box became bent. On the following Tuesday, PBT replaced the mail box with a new one after learning of the damage.

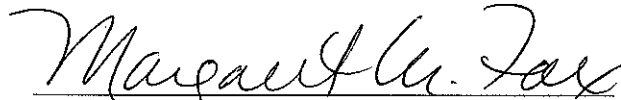
d. Video Line. Mr. Hatalski alleges that his coaxial video line was “possibly” cut during the installation. PBT learned of this allegation for the first time upon reading the Complaint Letter.

14. In addition to taking the above actions to address Mr. Hatalski’s concerns, PBT also made improvements to Mr. Hatalski’s property which were unrelated to the installation by PBT. Specifically, PBT placed gravel upon 90% of the driveway, which, according to Mr. Hatalski’s son, had previously been in poor condition and suitable only for use with all-terrain vehicles. A total of \$2,412.00 was expended to make this particular improvement to his property.

15. PBT has in good faith attempted to address Mr. Hatalski’s concerns. PBT has made all necessary repairs, as well as made additional improvements to his property that were unrelated to PBT’s installation of the fiber cable. Both Mr. Hatalski’s son and the installer of the sewer system have inspected the repairs and both have indicated that all of the repairs have been satisfactorily completed. In his Complaint Letter, Mr. Hatalski has failed to request any specific relief and, further, there is nothing contained within the Complaint Letter that provides a basis for this Commission to order any additional relief than that already given to Mr. Hatalski in that PBT has made all necessary and satisfactory repairs as well as voluntary improvements to his property.

WHEREFORE, having fully answered the Complaint Letter, PBT respectfully requests that this Commission dismiss Richard Hatalski's Complaint Letter for the reasons stated herein and grant such other and further relief as is just and proper.

Respectfully submitted,



M. John Bowen, Jr.

Margaret M. Fox

Sue-Ann Gerald Shannon

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ATTORNEYS FOR PBT TELECOM, INC.

April 21, 2009

Columbia, South Carolina.

BEFORE
THE PUBLIC SERVICE COMMISSION
OF
SOUTH CAROLINA

Docket No. 2009-119-C

IN RE: Richard Hatalski,

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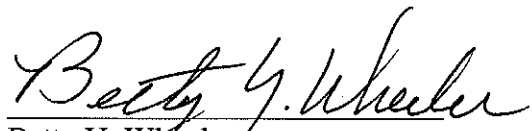
**CERTIFICATE
OF SERVICE**

I, Betty Y. Wheeler, do hereby certify that I have this date served one (1) copy of an Answer on behalf of PBT Telecom, Inc. upon the following counsel of record by causing said copies to be deposited with the United States Postal Service, first class postage prepaid and affixed thereto, and addressed as follows

Representing Richard Hatalski:

Richard Hatalski
102 John Long Road
Gilbert, SC 29054

Nanette S. Edwards, Esquire
Office of Regulatory Staff
1401 Main Street
Suite 900
Columbia, SC 29201



Betty Y. Wheeler
McNAIR LAW FIRM, P.A.
Post Office Box 11390
Columbia, South Carolina 29211
(803) 799-9800

April 21, 2009

Columbia, South Carolina